

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Case No. 18-5761

APPLICATION PURSUANT TO 28 USC 2241
(c)(5) FOR WRIT OF HABEAS CORPUS AD
TESTIFICANDUM FOR THE PRODUCTION
OF BRIAN DEMENT

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DECLARATION OF HENRY J. CERNITZ IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS
AD TESTIFICANDUM

Henry J. Cernitz, attorney for Brian Dement, declares as follows:

1. That I am a member of the Law Firm of Jacobson & Schwartz, LLP, attorneys for Brian Dement.
2. That this Declaration is made in support of the instant Petition for a Writ of Habeas Corpus *Ad Testificandum* for the production of Brian Dement, Register Number 89360-053 currently incarcerated in the Metropolitan Detention Center located in Brooklyn, New York. Brian Dement is a defendant in an action currently pending in Supreme Court of the State of New York, County of Suffolk, *Russo v. Dement*, Index Number 33747/2013. The action is going to trial and the prisoner wishes to testify in his own behalf. He was never deposed prior to going to prison, so there is no transcript available of any testimony. The case is scheduled to begin on September 26, 2108.
3. Prisoner Dement wishes to testify on his behalf regarding the circumstances as to the claimed injuries sustained by Plaintiff Russo. The case involves an altercation in a night club where the Prisoner is alleged to have negligently stabbed the Plaintiff and one other employee of the night club on November 9, 2013.

4. A civil action for damages was commenced in January of 2014. Before Plaintiff could be deposed he was sent to prison as a result of a conviction in State Court for assault. Subsequently he pleaded guilty on October 18, 2017 in Federal Court before Magistrate Steven I. Locke to a Count of a Felon in Possession of a Firearm. As of this date he has not been sentenced, the sentencing is scheduled for December 14, 2018.

5. Mr. Dement has pleaded guilty and has taken full responsibility for his crime. The crime was a non-violent crime and I respectfully submit that transporting Mr. Dement for his Testimony will pose minimal security risks and of course the fees and costs will be borne by his insurance carrier.

I declare under penalties of perjury that the foregoing is true and correct.

Dated: September 12, 2018
Jericho, New York



HENRY J. CERNITZ 9382